THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. Nos. 12481 of 2004 and 7312 of 2005

Common order:

These two writ petitions are filed assailing the award dated 15.10.2003, passed by the Labour Court in I.D. No. 6 of 2001 - W.P. No. 12481 of 2004 is filed by APSRTC contending that since there was delay of seven years and fifty days in the workman approaching the Labour Court and raising industrial dispute, the Labour Court while ordering reinstatement of the workman into service, has committed an error in granting 50% backwages. While W.P. No. 7312 of 2005 is filed by the workman contending that since the Labour Court had found that the charges leveled against the workman are not proved, while ordering his reinstatement into service, has committed an error in not granting full backwages and notional increments.

For the sake of convenience, the parties shall be referred to as APSRTC and the workman.

During the pendency of the writ petitions, the workman died on 21.04.2005, and his legal representatives filed application in W.P.M.P. No. 26087 of 2005, to come on record in the writ petition filed by him, which is ordered.

APSRTC despite having notice of the death of the workman, have not taken any steps to bring the legal representatives of the deceased workman on record in the writ petition filed by them, and on that ground alone, the writ petition filed by APRTC is liable to be dismissed.

Be that as it may, having regard to the rival contentions urged by APSRTC as well as the workman in support of their respective writ

petitions, I have perused the award of the Labour Court. The Labour Court based on the material and evidence placed before it, both by APSRTC and workman, found that APSRTC failed to prove the charge leveled against the workman, and that the workman has not committed any irregularity in following the rule of “issue and start” and that the enquiry report is perverse. Inasmuch as APSRTC failed to prove the charge leveled against the workman, no exception can be taken to the award of the Labour Court directing reinstatement of the workman into service.

Though APSRTC contends that the Labour Court committed an error in granting 50% backwages, the fact remains, APSRTC failed to prove the charges leveled against the workman, and having regard to the fact that there was inordinate delay in the workman approaching the Labour Court, namely after lapse of seven years and 50 days, the Labour Court thought it fit to grant 50% backwages, and accordingly granted it, and the said grant neither requires reduction, as sought by APSRTC nor requires appreciation, as sought by the workman.

It is the contention of the workman that he is entitled to notional increments. I am unable to agree with this contention, for the award of the Labour Court is very clear, while directing the reinstatement of the workman into service, it did not grant notional increments, though it granted 50% backwages. Hence, the workman cannot contend that he is entitled to notional increments.

It is the contention of the legal representatives of the workman that in view of the death of the workman, they are entitled to receive the benefits of the deceased-workman. Certainly, the legal representatives are entitled to receive the benefits of the deceased-workman, which APSRTC is due and liable to pay the deceased-workman.

In the above view of the matter, there are no merits in the writ petitions, and they are accordingly dismissed. In view of dismissal of the writ petitions, APSRTC shall settle the benefits of the deceased-workman, and pay the same to his legal representatives, expeditiously, within a period of two months from the date of receipt of a copy of this order. No costs.

_____

N.V. RAMANA, J.

Dated: 28th September, 2006.
KSR